

REMARKS

By this amendment, claims 1 and 9 are amended to place this application in condition for allowance. Presently, claims 1-20 are before the Examiner for consideration on their merits.

In the office action, the Examiner has made a new grounds of rejection based on USP 5,751,337 to Allen and 35 USC 103.

Allen et al. (Allen) is directed at the problem of videoconferencing and the inadequacy to achieve proper positioning, focus and alignment between stations. A particular problem that Allen et al. addresses is the lack of eye-to-eye contact between videoconferencing participants, noting that prior art stations also lacked the ability to visually enhance the virtual presence environment.

To solve these problems, Allen creates a video mirror, which uses eye level cameras and differentiation techniques to provide a composite image for display at a remote station.

Regarding the differentiation aspect, and with reference to Figure 5A, Allen takes the signal from the station of Figure 1A, and processes it to produce the images 112 and 114 of Figure 5A. This image without the background is transmitted to the remote station for display. Prior to displaying of the image, the images 112 and 114 are composited with a predetermined signal representing the background, so that the displayed image in the remote station blends with the remote station decor, and gives the impression that all participants are in the same room.

The embodiment of Figures 3A and 3B matches the decor of a station with the incoming signal, so that the stations can have different motifs.

Allen, in col. 14, lines 20-27, mentions a "dining environment" wherein the face-to-face presence can be enhanced by serving foods or drinks. One way Allen suggests this is to provide identical menus for each station so that it would appear that all participants are at the same table ordering. Waiters or the like can be provided that engage the remote participants with a scripted dialog.

Col. 18, lines 6-21 further expounds on the illusory concept of Allen in producing

Serial No. 09/263,812

the composite image.

Allen does note that more than two stations can be used, see col. 18, lines 1-4, so as to produce a teleconference convention.

Fundamentally, Allen is virtual in nature. Allen wants to create the illusion that all participants are in the same location, and does so by simulating a conference room experience, at best connecting several isolated-simulated rooms. This goal has nothing to do with the instant invention, which, rather than simulate, provides an active and natural restaurant experience that is more appropriate for pleasure than the sterility of a conference room setting. The invention wants to videoconference in a restaurant setting to improve restaurant performance. The goals are divergent, and Applicants strenuously contend that Allen does not lead one of skill in the art to the invention. Allen seeks to enhance the videoconferencing experience originating from an isolated room, Applicants seek to enhance the restaurant operation wherein the enhanced dining experience results in improved restaurant operation. Allen offers its patrons a hermetically-sealed and controlled environment whereas the invention offers its patrons an active, bustling, socially-familiar restaurant scene. A conference room meeting versus a dining experience in a social environment; two completely opposite sides of the spectrum. Additionally, a myriad of benefits are derived from the critical mass of conferencing booths associated with the inventive system and method.

Clearly, Allen does not teach the basic concept of the invention. This is confirmed by the Examiner's rejection under 35 USC 103.

Lacking anticipation, the Examiner is left with rejecting the claims based on an assertion of obviousness.

The basis for the rejection under 35 USC 103 is that because Allen suggests enhancing the closed environment so that food and meals are served during videoconferencing, one of skill in the art would arrive at the invention by using Allen in a restaurant. In making the rejection, the Examiner must assert that it would be obvious to employ multiple booths, more than one being equipped with videoconferencing in each location. Further, the Examiner must also contend that Allen must be further modified so that booths are located in an open area of the restaurant accessible to

Serial No. 09/263,812

patrons and workers.

This conclusion of obviousness is improper; Allen does not provide the motivation to use his system in a restaurant environment as is now claimed.

Claim 1 is amended to define that there are a number of videoconferencing booths. Claim 9 already has this limitation. Moreover, each of these claims is amended to define that the booths are in an open area of the restaurant that is sized to accommodate movement of restaurant workers and patrons, wherein the booths are open to each other. This feature of the invention is an important one that contributes to the aura of the restaurant. The intent of the invention is to have a dynamic experience wherein one party in New York shares the experience with another party in Tokyo, the sounds and activities of one restaurant become part of the videoconferencing. This is nowhere to be found in Allen; Allen wants all parties to think that they are in the same place, surrounded by a programmed environment.

In order to modify Allen to meet the claim limitations, one would have to replicate the station shown in Figure 2 of Allen, so that it would correspond to the number of booths desired for a restaurant location, and doing the same in a remote location. Moreover, the plurality of stations would have to be located in an open area wherein the booths are open to each other which is completely at odds with Allen's invention.

This type of a modification goes entirely against the mandate of Allen. As noted above, Allen seeks to create a virtual surrounding by simulating the videoconference as being in the same location. In order to do this, Allen requires that the entire station, including the backdrop, table and screen of each table, be used. With this requirement, one would not use the tables/screens in an open area with booths open to each other. Therefore, there is still no motivation to modify Allen to form the system of claim 1 or the method of claim 9.

Put another way, one of skill in the art would not merely place the tables/screens of Allen in an open area since the creation of a stagnant backdrop behind the participants of each station is critical. Without the backdrop (isolation), Allen's system breaks down. Allen is an exercise in enhancing the controlled environment of the videoconference. The invention is the antithesis of this singularity, using authentic and

Serial No. 09/263,812

organic surrounds to achieve a synergy for the restaurant in increased revenue, and the patrons benefit through an enhanced (business or pleasure) dining experience.

Again, the alleged modification of Allen is without a basis in the prior art. Nowhere does Allen suggest videoconferencing in a restaurant. At most, Allen suggests that a station can use props such as a menu and waiter to give the illusion of a restaurant. This is a far cry from using Allen in a restaurant.

Even if Allen uses a number of booths in separate locations, each booth is an isolated station, not a group of booths in an open area of a restaurant wherein the booths are open to each other. Such a combination of stations does not render claims 1 and 9 obvious; this arrangement is still not a restaurant, it is just a videoconferencing center.

If anything, Allen would teach away from an assertion of obviousness. This backdrop is used when the received signal is composited to produce an image of the remote participants in the aura of the signal-receiving station. To make the system of Allen into a restaurant, each table of the restaurant would require the elaborate structure of Figure 2 of Allen, a number of these stations still does not replicate the invention and make claims 1 and 9 obvious.

In summary, Allen does not establish a prima facie case of obviousness against claims 1 and 9, and the rejection must be withdrawn.

The rejection fails to establish a basis to reject claims 7, 8, 13, and 14. Claims 7 and 13 calls for an additional room and booth besides those described in independent claims 1 and 9, and the Examiner cannot assert that the booth of Allen is both those of claims 1 and 9 and the additional rooms of claims 7 and 13. Regarding claims 8 and 14, the stations referenced in col. 6, lines 61, refer to stations associated with the videoconferencing tables, and not in addition to these tables.

The rejections of claims 3, 5, 18, and 19 are also flawed because the Examiner has not provided an objective basis to conclude obviousness. In the rejection, the Examiner merely asserts that providing Internet access and central server of computer games is just obvious. This assertion is just conjecture on the Examiner's part. Applicants are not just claiming these features, but they are the first to combine these

Serial No. 09/263,812

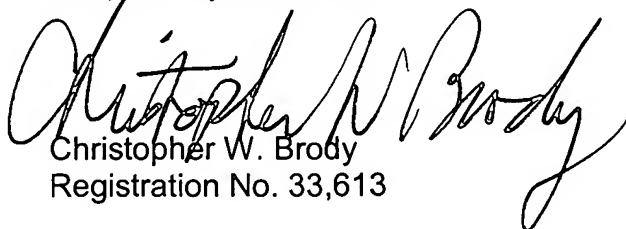
features with the videoconferencing restaurant of claims 1 and 9, and the Examiner must show by objective evidence that these claims are obvious.

In summary, claims 1, 3, 5, 7, 8, 9, 13, 14, 18 and 19 are all separately patentable over the applied prior art. That is and notwithstanding the differences in the closed loop videoconferencing particulars, the desirability of the overall videoconferencing experience known to date is immeasurably enhanced by the bustling and familiar environment proposed according to the invention. Such an environment takes advantage of the both the routine business conducted in restaurants and non-business group celebrations of family and friends to create a synergy in profits and patron benefit heretofore not found in the teachings of the prior art, especially Allen. The invention with its higher consumer awareness, economies of scale and ability to economically staff the restaurant with media waiters offers a level of service for technology that is not practical for a single isolated room as found in Allen. Allen's invention requires an isolated environment and simply would not work in an open restaurant setting.

Accordingly, the Examiner is respectfully requested to examine this application and pass claims 1-20 onto issuance.

Applicants' petition for a one month extension of time to extend the deadline for filing a response until April 2, 2003. Enclosed herewith is a check in the amount of \$55.00 to cover the fee. Please charge any shortages in fees to deposit account no. 50-1088, and credit any excesses to the same deposit account.

Respectfully submitted,



Christopher W. Brody
Registration No. 33,613

William G. Miller
2555 Pennsylvania Ave.
#802
Washington DC 20037
Date: April 2, 2003
Phone: 202-466-6464